

To. The Honorable Judge Arther Spiegel
U.S. Six District Circuit Court of Appeals
Potter Stewart U.S. Courthouse
100 East Fifth Street
Cincinnati, Ohio 45202

From. Earl Ingels #362-813
W.C.I.
P.O. Box 120
Lebanon, Ohio 45036

• Re. State of Ohio v. Earl Ingels Case No. C-1001003

Sir, I was told by my father years ago if you wanted correct information you should go to the horse's mouth and as I understand it sir you are the man with knowledge in these matters.

If you would bear with me for a few minutes I'll try to explain my situation. In the spring of 1997 my mother was diagnosed with cancer and being an only child, without question and with love I depleted all my personal savings and borrowed money to get her the cancer treatment she needed , because her insurance didn't cover the expense's.

She being from West Virginia, it was not an easy task, but with love and hope I done all I could. She passed away in October of 1997. Well I closed her very very small estate and I still owe \$4000.00. on her funeral expenses to this day.

Sir I am 58 years old and have worked hard all my life, but I was not prepared for this kind of expense and sir it just get worse. In Februrary of 1998 I was arrested and charged with kidnapping. This had to do with strippers and hookers, I was hiring for sexual services for myself and associates. From that point on I have had to rely on selling all my personal belongings such as cars, furniture, lawn mower, everything I owned to cover only part of my legal expenses from the first attorney Jack Rueburnstien who charged \$15.000.00. He said it would be \$15.000.00 to settle this and if we went to trial it would cost \$15.000.00 to \$25.000.00 more. I gave him all the cash I had \$3.000.00 as a retainer. He later told me he needed to be paid the balance before he would become active in the case.

So with the help of some friends we eventually paid him the \$15,000 dollars. Then he said we could either take a five (5) year plea deal the Judge approved or go to trial.

I responded by saying I did not kidnap anyone. I could prove it, because I had the canceled checks with notes in the memo section to prove it. So now along comes attorney Jani Turner Spitzier who was latter dis-barred.

She told me she could win this trial. Her fee would be \$7,000.00. Being blessed by God, a friend stepped up and sold a car he had, and paid her the \$7,000 dollars.

Now she told me she had ben practicing law for five (5) years and many other stories that I later learned were all untrue.

The day the trial started I learned this was her first criminal trial as a defense attorney and she had only been licensed as a lawyer for 18 months.

- The transcripts clearly reflects this. She did not know how to properly cross examine witnesses.

She didn't have any of the side bar conferences put on the record of which there were over 60, plus other parts of the trial are not on the transcript. She didn't interview the witness we gave her. She failed to enter all of our evidence into the trial. When she finall remembered the judge said no. She allowed tainted third party evidence to be entered into the trial.

Ten minutes after the verdict I was sentenced and she didn't say a word on my behalf.

She walked out of the court room, left on her honeymoon and I never heard from her directly again. By the way shorty after this she was dis-barred and ran off with a rodeo clown and joined the rodeo, this is fact.

So I lost and got 18 to life or 23 to life, I'm not even sure of that. Now it just get worse. Now the Judge declared me indigent. So a couple of other friends who had no real resources got together and hired me an appeal attorney, Ed Keller. He charged \$3.000, dollars. He later met with Mrs Joni Turner Spritzer, they became personally involed. So my appeal was five(5) of six(6) pages dealing with the fact that the prosecuting attorney interduced her husband to the jury in court.

Of course I lost the appeal. Now another friend contacted attorney Louis Sickin. He said a latin word was now in play that said I had to hire an attorney. They put up another \$3,000 of the \$7,000 he was charging for the heabeas Corpus.

Some friends would send him monthly payments. One friend even let the phone be disconnected so they could make payments to Mr. Sirkin. Now after many many months the Heabeas was returned to Mr. Sirkin because he had not exhausted all of his state remdey. He said it would cost 10 to 25 thousand dollars to do that.

So we are stopped again. Now enters Attorney Tim Wilson who is licensed in Ohio, but lives in Marina Delray Cailf. I knew him from years ago. I thought he had a office in Cailf. and was opening or moving back to Ohio. He said out of friendship I'll do the complete action clear back thr federal court for \$7,500 dollars, but I'll need \$2,500 up front and I'll wait on the balnce. He knew my son was in the process of getting a clear deed to some real estates which he was going to sell and try to help me.

I told him I did'nt have the money. He said there was a latin word in some paper work that meant I had to hire an attorney, which meant I had money.

• God interviened again and two people paid him the \$2,500 dollars. Your honor one of my questions is who are they and where is this money they say I have and if they will give it to me, the first thing I'll do is payoff my mother funeral bill and then if anything is left I'll try to hire a compentent attorney to help me.

The understanding with Mr. Wilson was very clear, he was to complete the process than no matter what be paid. It seems the legal system from some stand point has become more monetary driven than justice oriented. This saddens me as it should sadden the people of this great nation.

Well Mr. Wilson did some paper work to restart the process, However we had no idea that he was boot legging this paper work process. Please find enclosed a copy of a letter I received from attorney Torian proving Mr. Wilson was boot legging this case and did not know what he was doing. We now know he didn't have a office in Cailf. He didn't have a secretary, a office phone, a office copier, or even office space or any up date law books and has not done a heabeas for over 15 years. He has acted only as second chair in trial four(4) times in the past 15 years.

I have meet with once since the process stated once that was when he came to town on another legal matter. I have received only two correspondents from him with limited information. As I understand it he filed an amended Heabeas which the court allowed. At this point the prosecutor filed an answer. Now as I understand it, it is crucial that we answer the prosecutors brief.

Mr. Wilson waited till there were three (3) days left to answer this brief and left a phone message on a friends answering machine demanding the \$5000, dollars or and saying if he didn't get it he would not give an effective answer to the brief and I would loose my final appeal, saying so wire me the funds or Earl is finished, or something to that effect. Now my friends were on a five day camping trip to a friends farm and did not get the message till it was to late. Now he says and this is a quote,

"Its over for Earl he's barred and if I don't get \$3000, dollars I'll not be responsible for all his legal files." Your honor he has everything from day one on this case. Sir after all this these are my questions; How do I get some legal help with this? How can I get back into court to answer this crucial brief from the prosecutor? How can I get my legal files from Mr. Wilson before he destroy them? Sir I know in my heart and mind the issues I had Mr. Wilson raise with the amended habeas has merit and should be heard.

Your honor you are the only person I know of that can truthfully answer my questions. Sir I have no money. I have sold everything I owned from furniture to my weed eater. My friends are completely tapped out and I've yet to get a fair hearing on these crucial issues.

I sit here humbly praying, asking, and crying real tears for help. To summarize sir, I need someone to be honest and truthful. I need to know if I can get legal help? I need to know if I can get my Habeas Corpus re-opened so I can answer the brief. I need to know how do I go about getting my legal files back from Mr. Wilson before they get destroyed?

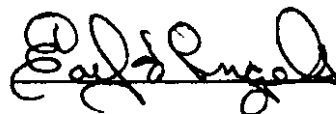
As I asks, I pray to God that he will touch your heart and keen legal mind to assist me. Your Honor I pray daily and now I pray upon you to show some mercy and direction in this greivous matter.

Please answer me sir.

May God Bless and guide you and your-honorable court.

Respectfully Submitted

Sincerely



#362-813

W.C.I P.O. Box 120

Lebanon, Ohio 45036

7/20/04

SUPPLEMENT ATTACHMENT IN SUPPORT OF THIS MOTION

We further submit that according to Id at 9-10; California v. Roy 519 U.S. 2,4, 136L, Ed 2d 266, 117 S. Ct 337 (1996) is quoted in Patterson [*609] d. Harmless error review, Par 2 It was the conclusion of the Federal Court that these errors did infact harm the petitioner and cause greivous harm to the proceeding. We submit that the full proof of our conclusion of ineffective trial and appeal's counsel in supported by the review of a Pro bono private attorney, and the two internationally recognized law schools that have reviewed the transcript and based on our study and review also. We draw the same conclusion and submit these issues as grounds for re-opening our habeas corpus. Please review the following and I am sure you as a learned jurist will agree that these issues infringe with great harm upon Federal Law and Constitutional rights of the petitioner.

FAILURE of trial and appeals counsel to raise issue of improper jury instructions, failure to raise issue of lessor included offense and double jeopardy. FAILURE to expose the fact that certain plaintiffs and witnesses were offered deals, not to be prosecuted for propositon and drug use in exchange for testimony. FAILURE of trial and appeals counsel to expose the fact that Dr. Powers wans Not a Licensed Toxicologist but only licensed as a Pathologist and had no expert knowledge of drugs, his testimony reflects the fact that his experience with the named drug only comes from a injection of the drug he recived from a dentist which is not a valid comparrison to a drug taken in pill form as stated by medical experts after the fact. FAILURE of all legal counsels to address improper jury instruction by the court, not

giving instruction on a lesser included offense in the kidnapping charges based on no separate animus under Ohio law. FAILURE of Court, to offer lesser included offenses in jury instructions. FAILURE of trial and all appeals counsels to raise issue of Same- and Similar a Fraudulent information in the sentencing phase which was never presented to the jury but used to justify the sentencing increases, / Blakely issue. FAILURE of Trial and Appeals Counsel to raise issue of Double Jeopardy in charges, under Ohio 2941.25 (a) showing there was no separate animus proven in the charges of kidnapping and gross sexually imposition. State v. Logan 397 N.E. 2d 1345, State v. Donald 389 N.E. 2d 1341, State v. Brooks 583 N.E. 2d 1035 and several more supporting cases. FAILURE of Appeals counsel to raise issue of fraudulent Judgement based on fraudulent information See Hartford v. Hartford (1977) 53 Ohio App 2d 79-371, N.E. 2d 591, 700 3rd 53, this clearly states there is no filing time limit when fraud via evidence is entered in to the court. FAILURE of trial and appeals counsel to raise the fact there was no separate animus proven by the state causing the petitioner to be incorrectly charged and sentenced to several counts of kidnapping. Failure of trial counsel to raise issue and have court make correction in petitioner charges based on Ohio Law 2941.25 (A) where there was no separate evidence or animus and where the acts were clearly allied offenses of similar import.

In State of Ohio v. Patterson as ruled on in the Federal 6th Dist U.S. App Lexis 529 ** 2003 FED App 0020 (6th Cir) In the Patterson matter his claim of defective jury instruction and his conviction of the crime charged was not supported by sufficient evidence and this position was agreed

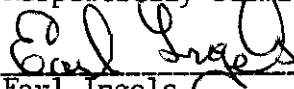
ence and this position was agreed with by the 6th Cir. We maintain that these issues clearly exist in our case and have submitted them for review after two internationally recognized law schools, but we have been unable to have any state court recognize the merits because they were never properly raised by counsel. We also refer to B Jury instructions in the Patterson Case Par's (1 and 2) further supporting our claim. We further support our claim in U.S. v. Gaudin 515 U.S. 506-23 L.E. d 2d 444, 115 S. Ct. 2310 (1995) In item [*608] of the Patterson decision at **30 requires that every element of the crime be proven to a jury, it is quite obvious by review of the transcript that the kidnapping charges was not proven by the state based on the fact no separate animus between the kidnapping and Gross sexually imposition was ever proven, the state never introduced any evidence of different types of evidence to prove two crimes were committed.

~~THE~~ Abuse of discretion of the trial judge in not ordering separate trials for each count that arose from a different set of facts involving eight (8) different women, which testimony is so convoluted that it could have only confused and prejudiced the jury against the defendant, resulting in a conviction based on quantity rather than quality. ABUSE of discretion of the trial judge in allowing prosecution to call witnesses during the defense's case in chief and not only did the defense counsel fail to object to this, but agreed to it. IF this is not ineffective and shows incompetence of trial counsel, I don't know what does. FAILURE of the defense counsel to bring a motion to suppress the drug evidence obtained in a highly suspect manner AFTER an illegal search, a legal search pursuant to a warrant FAILED to produce any such drug evidence and after a Break-In of the defendant's

house had occurred, now suddenly there is evidence. Fruit of a poisonous vine to say the least. FAILURE of the defense counsel to bring a motion to suppress other evidence that was not properly tied to the defendant and that was also highly prejudicial; FAILURE of the trial court to have all side bar conferences on the record as well as the FAILURE of defense counsel to ask that this be done, resulting in an totally incomplete record as according to the record Many KEY decisions were made by the court after the issues were discussed at side bar or in chambers conferences; ERRORS of the trial court in allowing certain highly prejudicial evidence to be admitted and the failure of trial counsel to object to the admission of such evidence; FAILURE of the defense counsel to object to the admission of such evidence; FAILURE of the defense counsel to object to the admission of certain medical reports and lab tests that were admitted without having a proper foundation laid, where custody and chain of evidence had been broken. FAILURE and Abuse of the trial court's discretion in allowing the admission into evidence of certain evidence that was clearly fruit of a poisonous vine and allowing medical reports and lab test highly speculative, not even requiring a proper foundation be laid; INEFFECTIVE and Incomplete cross-examination by the defense counsel of Virtually every witness for the prosecution; FAILURE of and Ineffective assistance of trial counsel when failing to call and examine witnesses for the defense that could expose previous false testimony given by prosecution witnesses. FAILURE of the defense counsel to do a proper investigation into the background

and motivations of the primary witnesses and alleged victims, almost all of whom were strippers, alcoholic, drug addicts or currently charged with prostitution or in rehab or out on bond for other crimes. FAILURE of defense counsel to file a simple motion for acquittal. FAILURE of defense counsel to file a motion for a new trial based on obvious errors any first year law student could have detected.

Respectfully submitted,



Earl Ingels

AFFIDAVIT OF INDIGENCY

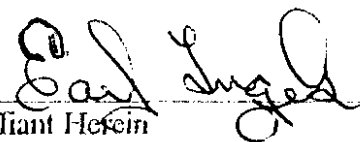
STATE OF OHIO)
) SS:
COUNTY OF WARREN)

I, EARL Ingels, a United States citizen and affiant herein, after being duly cautioned and sworn, depose and say:

- (1) That I am currently incarcerated at the Warren Correctional Institution;
- (2) That I do not have the funds or monies to pay the costs within this action;
- (3) That I firmly believe that I am entitled to the relief requested;
- (4) That I am not represented by an attorney of law to undertake this task for me so I must proceed in *Pro Se*;

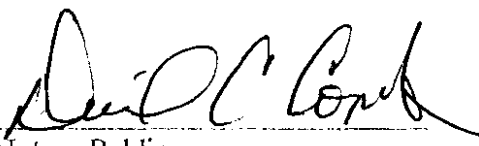
- (5) That I am indigent as defined by the Ohio Revised Code;
- (6) That all of the averments and statements contained herein are true and correct to the best of my knowledge and belief.

FURTHER AFFIANT SAYETH NAUGHT.


Affiant Herein

Sworn and subscribed to in my presence, a Notary Public, on this 6TH day of

July, 2005


Notary Public

David C. Combs Jr.
Notary Public
My Commission Expires: 6/28/09